

inhibiting BLYS activity in a mammal.” On the other hand, all pending claims of the present application are either directly or indirectly dependent on Claim 89, which is directed to “a method of inhibiting B lymphocyte proliferation in a mammal.” Based on these differences, it is clear that the claims of Application No. 09/569,245 would not render the claims of the present application obvious to one of ordinary skill in the art. Accordingly, the provisional double patenting rejection of Claims 89 and 102-111 should be withdrawn.

(2) Rejection of Claims 105-106 and 110-111 under 35 U.S.C. §112, Second Paragraph

Claims 105-106 and 110-111 have been rejected for various reasons under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 105 and 106 have been rejected as being vague and indefinite for use of the phrase “the composition comprises a multimer of fusion proteins.” These claims have been amended in a manner believed to overcome this rejection. Support for this amendment is found in the specification at page 50, lines 19-21, which indicates that “[t]he present invention further provides a variety of other polypeptide fusions and related multimeric proteins comprising one or more polypeptide fusions.” Therefore, the rejection of Claims 105 and 106 under 35 USC 112, second paragraph as being vague and indefinite should be withdrawn.

Claims 110 and 111 have been rejected as being vague and indefinite for use of the phrase “the composition comprises a dimer of fusion proteins.” These claims have been amended in a manner believed to overcome this rejection. Support for this amendment is found in the specification page 50, line 21, which refers to “one or more polypeptide fusions (see discussion in preceding paragraph), and at page 15, lines 24-25, which indicates that the present invention includes “polypeptides in alternative physical forms, such as dimers....” Accordingly, the rejection of Claims 110 and 111 under 35 USC 112, second paragraph as being vague and indefinite should be withdrawn.

(3) Rejection of claims under 35 U.S.C. 102 (b)

Claims 89, 102 and 107 have been rejected under 35 U.S.C. 102 (a) as being anticipated by Braun et al. WO 98/39361. This rejection is respectfully traversed.

It is an axiom of patent law that, when examining the propriety of a rejection under 35 USC 102(a), the focus must be on the invention as claimed. All pending claims are either directly or indirectly dependent on Claim 89, which require binding to a particular ligand, ztnf4. On the other hand, Braun et al. is silent as to the identity of the ligand. In particular, it is noted in Braun et al. that "[t]he identity of the endogeneous ligand of the TACI protein is unknown." (See, Braun et al. page 52, line 19) Because of this, Applicants are entitled to claims reciting the ligand ztnf4.

In view of the foregoing, the rejection of Claims 89, 102 and 107 under 35 U.S.C. 102 (b) as being anticipated by Braun et al. should be withdrawn.

(4) Rejection of claims under 35 U.S.C. 103 (a)

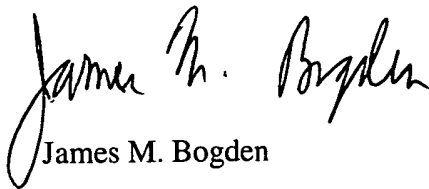
Claims 89 and 102-111 have been rejected under 35 U.S.C. 103 (a) as being unpatentable over Braun et al. (WO98/39361) in view of Presta et al. (U.S. Patent No. 5,739,277). This rejection is respectfully traversed.

As noted above, Braun et al does not disclose any ligand for the receptor for ztnf4, while all of the rejected claims are directed to methods requiring ztnf4 binding. In view of this, the disclosure in Braun et al. of the use of fusion proteins and the disclosure in Presta et al. of methods of making fusion proteins comprising the Fc portion of an immunoglobulin is insufficient to overcome this deficiency. For the foregoing reasons, the Examiner's rejection of Claims 89 and 102-111 under 35 U.S.C. 103 (a) as being unpatentable over Braun et al. in view of Presta et al. should be withdrawn.

Early reconsideration and allowance of the pending claims is respectfully requested. If the Examiner believes that a telephone interview would expedite prosecution of this patent application, please call the undersigned at (206) 442-6568.

Respectfully Submitted,

Jane A. Gross et al.

A handwritten signature in black ink, appearing to read "James M. Bogden". The signature is fluid and cursive, with the first name "James" being the most prominent.

James M. Bogden

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Enclosures:

Petition and Fee for 3 Month Extension of Time (in duplicate)

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Version With Markings to Show Changes



VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

105. (Amended) The method of claim 102, wherein the soluble form of the ztnf4 receptor comprises [a multimer] multimeric proteins [of] comprising one or more fusion proteins.

106. (Amended) The method of claim 105, wherein the soluble form of the ztnf4 receptor comprises [a dimer] dimeric proteins [of] comprising one or more fusion proteins.

110. (Amended) The method of claim 107, wherein the soluble form of the ztnf4 receptor comprises [a multimer] multimeric proteins [of] comprising one or more fusion proteins.

111. (Amended) The method of claim 110, wherein the soluble form of the ztnf4 receptor comprises [a dimer] dimeric proteins [of] comprising one or more fusion proteins.

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